

On page two of the Office Action, the Examiner referred to page 21, line 23, and asserted that the drawings do not contain the reference sign for the term "dummy gate electrodes 7." Applicants note that each drawing is not required to include each reference numeral, as inferred by the Examiner objection. Instead, 37 C.F.R. § 1.84(p)(5) only requires that "[r]eference characters mentioned in the description must appear in the drawings," and Applicants respectfully submit that the drawings disclose reference numeral 7.

As described on page 21, lines 4-6, Fig. 7 is an illustration of the second embodiment, and in the same paragraph the term "dummy gate electrodes 7" is used. Feature 7 is also illustrated in Fig. 7. The term "dummy gate electrodes 7" on page 21, lines 20-21 referred to by the Examiner is associated with Fig. 8, which is described as "another semiconductor device practiced as the second embodiment." Thus, Fig. 8 illustrates the same embodiment as disclosed in Fig. 7. In fact, the only visual difference between Fig. 7 and Fig. 8 is feature 3. Although the dummy gate electrodes are not labeled in Fig. 8, dummy gate electrodes are labeled as feature 7 in Fig. 7, and it is readily apparent that the dummy gate electrodes in Figs. 7 and 8 are the same. Therefore, reference character 7, mentioned in the description, appears in the drawings (specifically, Fig. 7), as required by C.F.R. § 1.84(p)(5). Thus, Applicants respectfully solicit withdrawal of the imposed objection to the drawings.

CLAIMS 5 AND 9 ARE REJECTED UNDER 35 U.S.C. § 102 FOR ANTICIPATION BASED UPON

BABCOCK ET AL., U.S. PUBLICATION No. 2002/0033519 (HEREINAFTER BABCOCK)

On pages three and four of the Office Action, the Examiner asserted that Babcock identically discloses the claimed invention. This rejection is respectfully traversed.

Applicants incorporate herein the arguments previously presented in the Amendment filed February 27, 2004, with regard to the identical rejection. Applicants note the Examiner statement on page 11 of the present Office Action in the section entitled "Response to Arguments," in which the Examiner asserted:

The Examiner notes that Figure 2 of Babcock et al. does teach an active region (80) proximate to each of the resistor elements. As defined by Applicant in their preamble, said resistor elements is a "plurality of resistor elements". Therefore, since each resistor element is a plurality of resistor elements, the active region (80) of Babcock et al. is proximate to each resistor element.

This statement by the Examiner evidences a clear misinterpretation of the plain meaning of the claim language recited in claim 5. Claim 5 (including the preamble) recites, in part, the following limitations:

- (i) "[a] semiconductor device having a plurality of resistor elements," and
- (ii) "active regions proximate to each of said resistor elements."

No language exists in the clause (i) (i.e., the preamble) that could possibly lead to the Examiner's interpretation that "each resistor element is a plurality of resistor elements." To arrive at the interpretation proffered by the Examiner, the two clauses listed above for claim 5 would have to read as follows:

- (i) a semiconductor device having a plurality of a plurality of resistor elements,
and
- (ii) active regions proximate to each of said plurality of resistor elements.

The term "each" as used in the phrase "each of the resistor elements," refers to a single resistor element, and is consistent with the dictionary definition of "each," which is "every one of two or more considered individually or one by one: *each stone in a wall; a door at each end.*"¹ The Examiner's interpretation of claim 5, therefore, is incorrect. Since Babcock teaches an active region adjacent each of a plurality of resistor elements and not an active region adjacent each of the resistor elements, as recited claim 5, Babcock fails to identically describe the claimed invention within the meaning of 35 U.S.C. § 102. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of claims 5 and 9 under 35 U.S.C. § 102 for anticipation based upon Babcock.

CLAIMS 1-3, 11 AND 13 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS

BASED UPON BABCOCK IN VIEW OF WOLF ET AL. (HEREINAFTER WOLF)

On pages 4 through 7 of the Office Action, the Examiner asserted that one having ordinary skill in the art would have been motivated to modify the semiconductor device disclosed by Babcock in view of Wolf to arrive at the claimed invention. This rejection is respectfully traversed.

Applicants incorporate herein the arguments previous presented in the Amendment filed February 27, 2004, with regard to the identical rejection and the arguments previously presented above with regard to the rejection of claim 5 for anticipation based upon Babcock. As with claim 5, independent claim 1 also recites that "active regions [are] proximate to each of said resistor elements," and since Babcock teaches an active region adjacent each of a plurality of resistor

¹ Webster's College Dictionary, Random House, 1995, pg. 419.

elements and not an active region adjacent each of the resistor elements, as recited claim 1, Babcock fails to teach or suggest the limitation for which the Examiner relied upon Babcock to teach. The secondary reference to Wolf does not cure this deficiency. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of claims 1-3, 11 and 13 under 35 U.S.C. § 103 for obviousness based upon Babcock in view of Wolf.

CLAIMS 1-3 AND 11 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON WU, U.S. PUBLICATION No. 2002/0084886 IN VIEW OF BABCOCK

On pages 7-10 of the Office Action, the Examiner asserted that one having ordinary skill in the art would have been motivated to modify Wu in view of Babcock to arrive at the claimed invention. This rejection is respectfully traversed.

The Examiner has factually misinterpreted the teachings of Wu. In the paragraph spanning pages 7 and 8 of the Office Action, the Examiner asserted that "the active region is formed in said semiconductor substrate and partition said element isolating film." Applicants respectfully disagree for two reasons. The plain meaning of this phrase is that the active region partitions a single element isolating film. Otherwise, Applicants would have recited "the active region ... partition said element isolating films." However, Figs. 2A-2G of Wu, which was cited by the Examiner for support, does not disclose the active region partitioning a single element isolating film. *Assuming arguendo* that the structure illustrated in Figs. 2A-2G is repeated, then the active region 220 partitions a pair of adjacent element isolating films 202 but not a single element isolating film.

The second factual error associated with the above-reproduced phrase is that the Examiner's asserted active region (i.e., feature 220) is not formed in the semiconductor substrate 200. Instead, as clearly illustrated in Fig. 2G, the doped polysilicon layer 220 is formed over the substrate 200. Thus, Wu fails to teach or suggest the particular limitation reproduced above for the reasons stated above.

Upon reviewing Fig. 2G of Wu, which is the final structure disclosed by Wu, and Fig. 2C of Babcock, which was also cited by the Examiner, Applicants question why Wu was even cited since Babcock discloses every feature disclosed by Wu. Wu and Babcock both disclose a substrate (feature 200 for Wu, feature 10 for Babcock), an element isolating insulating film (feature 202 for Wu, feature 20 for Babcock), an alleged active region (feature 220 for Wu, feature 80 for Babcock). With regard to the claimed limitations, Wu teaches only a single resistor element 214 on the element isolating insulating film 202, whereas Babcock teaches multiple resistor elements 60, 70 on the element isolating insulating film 20. Thus, if Wu was to be modified in view of Babcock, the structure disclosed in Fig. 2C would be the result. However, as already discussed above with regard to claim 5, Babcock fails to teach or suggest active regions proximate each of the resistor elements, and this same limitation is found in independent claim 1. For the reasons stated above, Applicants respectfully solicit withdrawal of the imposed rejection of claims 1-3 and 11 under 35 U.S.C. § 103 for obviousness based upon Wu in view of Babcock.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the

Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417, and please credit any excess fees to such deposit account.

Respectfully submitted,

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